

MOURANT OZANNES

1 Le Marchant Street
St Peter Port
Guernsey GY1 4HP
Channel Islands
T +44 1481 723 466
F +44 1481 727 935
mourantozannes.com

Ms Helen Pidd
The Guardian
Kings Place
90 York Way
London
N1 9GU

14 June 2012

Your Ref
Our Ref B19400001/55336763/1

By email: helen.pidd@guardian.co.uk

Dear Helen

Kevin Delaney, Sir David and Sir Frederick Barclay

I refer to your email of 12th June, I have taken instructions and respond on behalf of Sir David and Sir Frederick Barclay as follows:

You have been misinformed by those you have been talking to - which is entirely predictable given their open hostility to my clients. My clients say that you should question their motives and, indeed, their agenda. Are they against free speech, a free press and being held to account for their actions? Do they fear exposure by the Sark Newsletter and the loss of power, particularly as a result of Ms Crowe's recommendations? Please note also those most hostile to my clients are either part of the feudal establishment, its supporters or Island Officials and have actively been seeking media exposure including regularly briefing Private Eye. I would ask you please to be alert to the risk of simply being taken in by what is said to you and instinctively siding with what can be portrayed as the underdog in the dispute but in fact is the feudal establishment which (a) holds the political power in Sark and (b) seeks to defend a system of government done away with elsewhere in Europe centuries ago and which has most recently been extensively criticised by Ms Crowe whose report was clearly endorsed by Lord McNally (who also said he had never come across a system of administration such as Sark's anywhere else in the world, and he plainly was not commending it).

1. Untrue. The companies you mention are not owned by the Barclay brothers, but by the Barclay family. They own approximately 23% of the island and not 30% as you state. The 30% figure is often mentioned by those hostile to my clients but is wrong. Please note also that even the 23% figure is liable to mislead. That 23% is subject to many leases of various lengths in favour of unconnected 3rd parties. Much of that land is also agricultural rather than built-up. Again, please note that political power remains with what can be called the feudal establishment.

You refer to four hotels when there are three - which have been restored from dilapidation. The fourth hotel is owned in partnership with a local

Mourant Ozannes is a Guernsey partnership

Partners: D T Bacon, P R P Christopher, G S K Davies, C H Edwards, G J Farrell, P T R Ferbrache, J H Lewis, D C Moore, St J A Robillard, J E Roland, R C Shepherd, M A Torode, J M Wessels,
Consultants: G T A Bainbridge, J F Dyke (non-advocate), R A R Evans

person and the improvements made to it have resulted in the hotel receiving a sustainability award in addition to two AA rosettes for its kitchen. It has also just won the Considerate Hoteliers award for Small Hotel of the Year. No offers have been made for any other hotels, nor are there any intentions of doing so. There is no question of buying up the island if that is what is being alleged.

2. Untrue. The Sark Newsletter is owned and published by Kevin Delaney. It would be natural for him to include the island's hotels in his publication in order to promote tourism. No doubt Mr Delaney will say he has no reason to be critical of the Barclays because they have done nothing wrong. They have been the island's biggest ever investors and, as a result of their investment, 120 people have found full employment all year round, people who would otherwise be out of work and a number of whom have received training and are now qualified in various trades related to tourism, agriculture and construction. I am instructed that my clients have never received any return on their investment.
3. Untrue. Regrettably, Kevin Delaney as the editor of the island newsletter, has been subjected to continuous harassment as well as vandalism and criminal activities including threats of violence and the detonation of an explosive device outside his offices. In view of the fact that the island has no professional police force nor sufficient legislation to protect the victims of such behaviour, it was necessary for Mr Delaney to take steps to protect himself. Please note that the principal role of the individuals concerned is to act as witnesses to ensure that Mr Delaney is not deliberately placed in a difficult position by those hostile to him. There have been incidents in the past where individuals have tried to provoke a situation. Note in this context that the professional Guernsey Police actually requires the permission of the Seigneur under the 2008 legislation to come to Sark – which is entirely inappropriate and objectionable in this day and age but one of the many aspects of the continuing feudal establishment on Sark which my clients object to. In any event Mr Delaney is concerned that the Island authorities such as the constables and island judiciary are very much under the patronage of the Seigneur and not truly independent of the feudal establishment.
4. Untrue. The Barclays did not shut down any businesses on Sark. This was a decision taken by Kevin Delaney over 4 years ago. It is well documented that people were re-employed within a matter of days. It is also a matter of record that no one suffered financially as a result of the incident. Again, much misinformation about this event is circulated. Note also that the people of Sark appeared to have just voted very clearly against the investment and jobs brought by my clients to Sark but then protested even more vigorously at these events, which was, on the face of it, entirely inconsistent. Note also that without that investment Sark effectively shut down during the winter, there was no year-round employment. You should also be aware that posters depicting Kitchener had been placed around the Island by those hostile to the Barclay family saying that Sarkees should not worry about their jobs because jobs would be made available to all should they lose them, which was simply untrue and playing with individuals livelihoods for the purposes of the election.

5. Untrue. There is no evidence that the Barclays have used any economic, legal or political power to skew the operation of democracy on Sark. If it wasn't such a serious and defamatory allegation, it would, my clients believe, be laughable. On the contrary, it was the Barclays who pursued, through the Courts, Sark's breaches of the European Convention on Human Rights and feudal rule including primogeniture, the treizieme and the introduction of ECHR into Channel Islands' domestic law. It was a serious omission on the part of the Select Committee that they gave my clients no opportunity to comment on what was being alleged and my clients refute those implicit allegations entirely. It is not unfair to say that my clients are responsible for bringing democracy to Sark. There was considerable opposition to reform, and indeed there still is. For example, Sark has taken years to implement the ruling of the English Court of Appeal that the undivided role of the Seneschal as both judge and speaker of the parliament was in breach of the Convention and then muddled the waters further by seeking to give the Seigneur enhanced powers to dismiss the new judicial Seneschal. The treizieme referred to above was a private feudal tax payable to the Seigneur of 1/13th (7.69%) of the money value of any sale of realty. Again this was outrageous, but reform was opposed and only came in 2007, but at the price of an RPI linked pension to the Seigneur for unspecified "duties". Likewise, even the reform of the rule of male primogeniture (first born son inherits the lion's share of the estate) was vigorously opposed on Sark. It goes on and on. The kind of reforms which citizens of the UK regard as ancient history have had to be fought for on Sark in the 21st century. Those you have been talking to are those who, in the main part, opposed such reforms and continue to oppose reforms such as making the Seigneur a purely titular head as opposed to continuing to be an unelected member of the assembly with real and privileged political powers which he uses. My clients say that the criticism of the Select Committee would in fact be more appropriately made of the existing feudal establishment.
6. Untrue. Again, there is no evidence to support such an allegation. Indeed, taxes have been introduced in Sark in recent years and they continue to be introduced. Furthermore, Brecqhou is, as a result of property tax levied on the island's buildings, the single highest tax contributor to Sark's economy to the tune of approx. £20,000 per annum but takes nothing from Sark given that its infrastructure is entirely independent of Sark and entirely paid for by the Barclay family. The Barclay family makes an enormous net contribution to Sark's economy. The memorandum of understanding you refer to was in fact part of a sustained attempt on the part of my clients to reach a peaceful accord with Sark, but one which was ultimately spurned by the Sark establishment. The concern with Sark levying taxes in respect of Brecqhou was that Sark would seek to turn Brecqhou into a cash cow in the crudest of ways. Indeed there is currently open talk of introducing selective and discriminatory taxes targeting my clients and their interests. It is no coincidence that Sark is actively seeking to introduce new legislation to regulate and tax the production of alcohol on Sark at a time when my clients have invested heavily in planting vineyards.

7. Sir David and Sir Frederick have no comment to make. I should add though that Conseiller Hunt was cautioned by the Police. Again I remind you that Mr Hunt occupies the equivalent position of an MP and all Conseillers represent all of the people, it is a single constituency.
- 8.
- (i) Untrue. Clearly the people you have been talking to have their own agenda and my clients believe that you have been badly informed. The Sark Newsletter is owned and published by Kevin Delaney and it is not a matter for the Barclays to decide what he should and should not do as far as the Newsletter is concerned. Kevin Delaney has never "rubbished the businesses" of rivals but has rightly denounced and criticised favouritism such as planning permission being granted without what appears to be fair and proper due process. The Sark Newsletter writes what is in the public interest and exposes members of Chief Pleas and its committees who refuse to be transparent and accountable. It writes about Sark's breaches of international law and the island's undemocratic constitution. It writes about the appointment of island's unqualified judge who is also leader of the parliament, how he sets the agenda and controls the debate and abuses his position, even to the point of making unlawful political speeches when the 2008 legislation expressly forbids such.

Official complaints were made to Guernsey with regard to the Sark post office being a hub for feudalists supporters, amongst them a well known island bully, making it highly unpleasant for people with different political views to enter the premises. The complaint also highlighted the fact that the post office is used to monitor people's mail and who comes and goes on the island. It has been accepted by the Post Office that the premises of the Sark post office had become inappropriately politicised. Indeed an article from Private Eye attacking my clients was allowed to be placed and to remain on a notice board at the post office, which was wholly inappropriate.

As far as the doctor is concerned, it was not a personal attack. Again it was very much a matter of public interest the fact that the doctor did not override Mrs Beaumont's husband's decision in the interest of his patient but allowed his frail and seriously ill patient to be subjected to a two and a half hours delay in getting to hospital when she suffered a stroke instead of a 10 minute helicopter flight. In the middle of a stormy January night, she underwent a horrific journey on the floor of the lifeboat (it was too rough for the ambulance boat to come out), tossed about in mountainous seas because her husband did not want her to be evacuated by a freely available helicopter because, my clients suspect, of who it was owned by and because of the stance he had taken that helicopters (and more specifically the Barclay helicopter) should not land in Sark. Of course this does not prevent the Seigneur from welcoming Royalty and other invited VIPs arriving by Sark and his predecessor, the Dame of Sark, mentioned in her own autobiography how she had herself landed on Sark in a helicopter. I only mention this to put in context what has been said to you and the true background.

- (ii) Untrue. Mr Delaney did not refuse to meet Lord McNally. On the contrary, he was very much prepared to do so. However, he considered a meeting in the Island Hall, which amounts to the headquarters of the feudal establishment, inappropriate and 15 minutes insufficient time. After all, last year alone Mr Delaney published some 100,000 words on the matter of Sark's governance - which might also explain his response to your request for an interview. It is also clear that Lord McNally had no specific message for Sark other than that they should get on and reform their administration along the lines recommended by Ms Crowe, something Mr Delaney obviously endorses. If there is sourness it is the result of the refusal over many years of the Sark establishment to reform what is so obviously objectionable about Sark's laws and government and then to become extremely bitter and hostile when eventually compelled to do so. I pose this question: does the Guardian support male primogeniture, feudal overlordship, private feudal taxes, judges sitting as parliamentary speakers, an assembly dominated by the unelected feudal overlord and his lifetime appointee (the speaker/judge) (and until 2008 dominated also by the landowners as of right), feudal land law or politicians doubling as civil servants implementing their own policies? If, as seems likely, the Guardian would oppose all these things then please consider again Sark. And again it is no answer that the majority want to keep all these objectionable things if they are contrary to the international law which binds that community (the Convention) or against the norms of all the rest of Western Europe.
9. Untrue. The Sark Newsletter is not an opposition party. It is a part of the free press with a right to express its views. What you call attacks on individuals is exposure of:
- How feudalism has no place in the 21st century and how it is unacceptable for one man effectively to own the constitution, jurisdiction and judiciary of Sark and call it a democracy. It is also unacceptable that a feudal lord appoints his own judge and leader of parliament. In case you doubt the allegation of "ownership" the Seigneur has, in the past, actually threatened to give up his feudal lease and surrender Sark to the Crown, which is an extraordinary state of affairs and wholly anti-democratic. (His grandmother, the Dame, adopted the same tactic when things weren't going her way either.)
 - How Sark has a culture of bullying and intimidation led by members of certain prominent families on the Island and other prominent individuals with no laws to protect the victims of that culture. (Sark quite deliberately voted against implementing the civil remedies available under the anti-harassment legislation in Guernsey, itself copied from the UK.)
 - The total lack of transparency and accountability in the island's governance (as now accepted by Ms Crowe).

The Sark Newsletter is no different to the Guardian; it holds the feudal system, its governance, its members of parliament and officials to account. My clients cannot see that what Lord McNally said was criticism

meant for 'both sides'. He said a solution has to be found to a dispute. The Sark Newsletter was entirely vindicated by Ms Crowe's report and, indeed, by Lord McNally's support for its implementation.

I have myself attended every Chief Pleas meeting (except one) over the last 5 years and witnessed first-hand the very unsatisfactory process of a parliament presided over by a feudal lord and his appointed court officials; a parliament where there is no meaningful opposition, precious little debate and, if there is dissent, a call will be made for a named vote so that those challenging the "party" line have to identify themselves very publicly and as a matter of formal record. It is certainly not democracy as I understand it to be and Ms Crowe has rightly identified a number (but by no means all) of the very serious deficiencies.

You ask the question whether the Sark Newsletter intends to make personal attacks on individuals. It does not make personal attacks but it brings to the attention of its readers that if someone becomes "Chief Minister" and states in his manifesto that he is, amongst other things, a serial entrepreneur and a rug dealer and makes grand promises, then he must expect to be criticised if he doesn't act in a transparent and accountable way and in accordance with his promises.

Again, it is essential that you remember that these individuals are the equivalent of MPs in an assembly with powers the equivalent of the House of Commons (without a House of Lords to monitor it). The decisions made by Chief Pleas are of fundamental importance to life on Sark, it is not a parish council.

The very same people who spoke to you took part in a march on the Sark Newsletter's offices in an effort to close it down. My clients ask whether you are saying that if a free press criticises a government and their officials, that a crowd of people amounting to a lynch mob including close family members of the Island's principal judge and parliamentary speaker is justified in seeking to close the publication down? Again it is difficult to see the Guardian supporting such a line. While the views of the Sark Newsletter are undoubtedly unpopular with a number of people of Sark this is precisely when freedom of expression most needs protection and is most important. Nothing would have changed on Sark if there had been no opposition at all.

As for those who claim they are being bullied by the Newsletter's exposure, they must ask themselves why they haven't put laws in place to prevent true bullying, as mentioned above. It is the Newsletter which campaigns relentlessly against the bullying environment of Sark which has existed for as long as any Sarkee cares to remember, summed up by the attitude that if you don't like it there's a boat in the morning and picked up on by Ms Crowe when referring to those who don't play by "the rules" - it was these people who become the victims of the bullies. There are several notable examples of such cases.

You should also ask yourself why my clients, Sir David and Sir Frederick, should ever wish to behave in the way in which it is alleged against them.

They are not those kind of people. Indeed, they are known for their generosity and their support of charitable causes, not least in giving over £17 million to the children's hospitals of Great Ormond Street Hospital and Alder Hey in Liverpool and donations to over 500 charities in the UK alone over the last 15 years, including millions of pounds to medical research. They have also been Sark's biggest charitable donors over the last 15 years, contributing £200,000 to the island's new school and £75,000 to the islands' ambulance boat the Flying Christine, amongst other things.

Moreover, Sir David Barclay's views about the freedom of the press are well known to The Guardian and your editor Alan Rusbridger as they were published in The Guardian some years ago under the heading "*A free press is the guardian of democracy*". Sir David Barclay is a staunch believer in editorial freedom and the freedom of the press. However, journalists have a responsibility to comply with their own professional code of ethics which includes the principle of accuracy. They have therefore a responsibility, particularly when they have been informed of the facts, not to proceed and get it wrong.

10. The complaints against the Sark Post Office is ongoing. Note that it was Ms Langford who thought it appropriate to permit Private Eye articles attacking my clients to be publicly displayed in the post office.

For your information, the recent broadcast by BBC Radio 4's Sarah Montague made a number of accusations without foundation and defamatory statements, no doubt made by the very same people who have now spoken to you as a part of their ongoing campaign to involve the national media. This is now a matter before the BBC's Editorial Complaints Unit and the matter will have to be resolved to my clients' satisfaction sooner or later.

My clients welcome the opportunity to answer your questions but, in view of your persistence, they request that if you intend to write an article based on the allegations that have been made and raised in your questions, that you also print the whole of the contents of this letter, an opportunity which incidentally was not afforded the BCC.

Kind regards.

Yours sincerely



GORDON DAWES
Partner & Advocate
Mourant Ozannes
D +44 1481 731 479
F +44 1481 710 487
E gordon.dawes@mourantozannes.com

Copy Alan Rusbridger